

PROFESSIONAL SERVICES AGREEMENT 2023

RECITALS

This Professional Services Agreement (hereinafter referred to as "Agreement"), entered into by and between the **Tippecanoe County Prosecutor's Office**, (hereinafter referred to as "County") and **Kathryn J. Redd** (hereinafter referred to as "Contractor"), is executed pursuant to the terms and condition set forth herein.

The Tippecanoe County Prosecutor's Office is in need of a director of the Project Safe Neighborhood.

SECTION I. INTERPRETATION AND INTENT

- 1.01 The "Agreement", as referred to herein, shall mean this Agreement executed by County and Contractor, and shall include the Terms and Conditions, any attachments described or attached hereto, and any written supplemental agreement or modification entered into between County and Contractor, in writing, after the date of this Agreement.
- 1.02 This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between County and Contractor. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by County or Contractor which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both County and Contractor.
- 1.03 In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by Contractor or other rights or obligations of County or Contractor, the document or provision thereof expressing the greater quantity, quality, or scope of service of imposing the greater obligation upon Contractor and affording the greater right or remedy to County, shall govern. In case of conflict between this Agreement and the Sub-grant Agreement, the terms and conditions of the Sub-grant Agreement shall govern.
- 1.04 Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against County solely by virtue of County or County's representatives having drafted all or any portion of this Agreement.
- 1.05 This Agreement shall include, and incorporate by reference, any provision, covenant or condition required by the Project Safe Neighborhood/Grant Initiative for Tippecanoe County and said grant is incorporated herein by reference and included as part of this professional service agreement.
- 1.06 This agreement shall be construed and governed by the laws of the State of Indiana.

SECTION II. DUTIES OF CONTRACTOR

2.01 The Contractor shall provide the services described in this Agreement.

SECTION III. TERM

3.01 This Agreement shall commence upon full execution of the parties and shall terminate on December 31, 2023. Said Contractor fully understands that this agreement is a one (1) year Agreement which begins January 1, 2023 and will expire December 31, 2023. The Project Safe Neighborhood Grant may or may not be awarded to the Tippecanoe County Prosecutor's Office, in future years, and **funding for the Contract position may otherwise be unavailable.**

SECTION IV. COMPENSATION

4.01 County will compensate Contractor at the rate of \$66,950.00 annually, paid in 24 equal installments with said copy of claim submission schedule being provided to said Contractor at the date and time of signing of this agreement.

4.02 Contractor shall provide the County with invoices by submitting to the Prosecutor and/or his assistant on or before 12:00 p.m. (noon) on the date due. Said invoices will consist of the services performed by said Contractor in a format as required by County together with any supporting documentation as required by County. Contractor shall not invoice the County and shall receive no compensation from County for preparing of invoices and/or supporting documentation or any other activity related to billing or invoicing County for compensation earned under this Agreement. Upon approval of invoices by the County, the County shall pay Contractor for the approved invoice within thirty (30) days of approval.

SECTION V. GENERAL PROVISIONS

5.01 Independent Contractor. The parties agree that Contractor is an independent contractor as that term is commonly used and is not an employee of Tippecanoe County. As such, Contractor is solely responsible for all taxes and none shall be withheld from the sums paid to Contractor. Contractor acknowledges that it is not insured in any manner by the County for any loss of any kind whatsoever. The Contractor has no authority, express or implied, to bind or obligate the County in any way.

5.02 Subcontracting. The parties agree that Contractor shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of County. In the event that County approves of any such subcontracting, assignment, or delegation; Contractor shall remain solely responsible for managing, directing, and paying the person or persons to whom such responsibilities or obligations are sublet, assigned, or delegated. County shall have no obligation whatsoever toward such persons. Contractor shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Contractor of any responsibility for performing under this Agreement.

- 5.03 Confidentiality of County Information. Contractor understands that confidential information may be provided to it or obtained from County during the performance of its services that Contractor may not, without prior written consent from the County, disclose such confidential information to a person not in the County's employ. Further, Contractor's Work Product generated during the performance of this Agreement is confidential to County. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records.
- 5.04 Nondisclosure. Contractor shall not, under any circumstances, release information provided to it by, or on behalf of, the County that is required to be kept confidential by County pursuant to Indiana law.
- 5.05 Records; Audit. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance of services under this agreement. Contractor shall make such materials available at its offices at all responsible times during the Agreement period and for three (3) years from the date of final payment under this Agreement for inspection by the County or any other authorized representative of the Tippecanoe County, Indiana. Copies thereof, if requested, shall be furnished at no cost to the County.
- 5.06 Ownership of Documents and Materials.
- 5.06.1 All documents, including records, programs, data, film, tape, articles, memos, and other materials, created or developed under this Agreement, shall be considered "work for hire" and the Contractor transfers any ownership claim to the County and all such matters will be the property of the County. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the County, is prohibited. During the performance of the services specified herein, the Contractor shall be responsible for any loss or damage of these materials enveloped for or supplied by the County and used to develop or assist in the services provided herein while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this Agreement shall be available to the County. Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers in accordance with professional standards.

5.07 Insurance.

5.07.1 Contractor is responsible for the purchase and maintaining of any insurance and is aware that neither the Tippecanoe County nor the Tippecanoe County Prosecutor's Office will provide any insurance to the contractor including workman's compensation, insurance for any claims of damage because of bodily injury and/or personal injury, including death, nor will insurance be provided for claims for damage to property. Contractor understands that the purchase of the insurance is totally within the control and responsibility of Contractor.

5.08 Termination for Cause or Convenience.

5.08.1 If Contractor becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors or consultants employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then County may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that Contractor shall be given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested or by personal service) of County's intent to terminate, and (2) an opportunity for consultation with County prior to termination. In determining the amount of final payment to be made to Contractor upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by County to be incurred by reason of Contractor's default.

5.08.2 This Agreement may be terminated in whole or in part in writing by County for County's convenience: provided that Contractor is given (1) not less than ten (10) calendar days written notice (delivered certified mail, return receipt requested or by personal service) of intent to terminate and (2) an opportunity for consultation with County prior to termination. If termination for convenience is affected by County, Contractor's compensation shall be equitably adjusted.

5.08.3 This agreement may be terminated in whole or in part if for any reason the Tippecanoe County Prosecutor's Office does not receive any additional grant funds from Project Safe Neighborhood for any fiscal year. **The use of other funds for the position is at the County's discretion and does not constitute a waiver of its rights under this section.**

5.08.4 This Agreement may be terminated by Contractor only in whole and only upon thirty (30) days written notice to County.

5.09 Termination for Failure of Funding. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this agreement by County are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then County shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance, unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received.

5.10 Indemnification. Contractor agrees to indemnify, defend, and hold harmless the County and Tippecanoe County Prosecutor and its officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments, and liens to the extent they arise out of any negligent or wrongful act or omission by Contractor or any of its officers, agents, employees or subcontractors, regardless of whether or not it is caused in part by the negligence of a party indemnified hereunder. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein. The County shall not provide such indemnification to the Contractor, provided, however, that the Contractor shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omission of the County.

5.11 Notice. Any notice, invoice, order or other correspondence required to be sent under this Agreement shall be sent to:

To Contractor:
Kathryn J. Redd
609 B. Main Street
Lafayette, IN 47901

To County:
Patrick K. Harrington
Tippecanoe Co. Prosecutor's Office
111 N. 4th Street
Lafayette, IN 47901

5.12 Non-discrimination. Contractor and its subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, religion, color, sex, handicap, disability, national origin, ancestry, disabled veteran status, or Vietnam-era veteran status. Breach of this section shall be regarded as a material breach of this Agreement.

5.13 Conflict of Interest. Contractor certifies and warrants to County that neither it nor any of its agents, representatives or employees who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with County.

5.14 Non-contingent Fees. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this

warrant, County shall have the right to annul this Agreement without liability or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- 5.15 Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as Force Majeure Event), the party who has been also affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended except for payment obligations with respect to service already provided. If the period of nonperformance exceeds sixty (6) days from the receipt of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.
- 5.16 Applicable Laws; Forum. The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included herein and are hereby incorporated by reference. This includes the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the County and the Contractor to determine whether the provisions of the Agreement require formal modification. This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinances or Codes of the County of Tippecanoe. Suit, if any, shall be brought in the State of Indiana, County of Tippecanoe.
- 5.17 Waiver. The County's delay or inaction in pursuing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of the County's rights or remedies.
- 5.18 Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a Court of competent jurisdiction, the provision shall be stricken; and all other provision of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.
- 5.19 Attorney's Fees. Contractor shall be liable to the County for reasonable attorney's fees incurred by County in connection with the collection or attempt to collect, of any damages arising from the negligent or wrongful act or omission of Contractor, or from Contractor's failure to fulfill any provisions or responsibility provided herein.
- 5.20 Successors and Assigns. County and Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as otherwise provided herein, Contractor shall not assign, sublet or transfer its interest in this Agreement without the written consent of County.

Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of County.

5.21 Authority to Bind Contractor. Notwithstanding anything in this Agreement to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute agreements on behalf of the Contractor designated above, has filed proof of such authority with County and has obtained all necessary or applicable approval from the home office of the Contractor to make this Agreement fully binding upon the Contractor when his/her signature is affixed and accepted by the County.

5.22 E-Verify Employment Eligibility Verification - In accordance with IC 22-5-1.7, if Contractor has any employees or subcontractors, and the E-Verify program as defined in IC 22-5-1.7-3 is in existence, Contractor shall enroll in and verify the work eligibility status for all of Contractor's newly hired employees through the E-Verify program. Contractor shall not knowingly employ or contract with an unauthorized alien, nor shall Contractor retain an employee or contract with a person that Contractor subsequently learns is an unauthorized alien.

Contractor shall:

1. Sign and deliver to County a sworn affidavit that affirms that the Contractor has enrolled and is participating in the E-Verify program; and
2. Sign and deliver to County an affidavit affirming that Contractor does not knowingly employ an unauthorized alien.

Contractor shall require all subcontractors, who perform work under this contract, to certify to Contractor in a manner consistent with federal law that the subcontractor, at the time of certification, does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of each subcontract.

County may terminate the contract immediately if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified thereof by County or another state agency or political subdivision. In accordance with IC 22-5-1.7, any challenge by Contractor to a termination pursuant to this provision must be made in Tippecanoe County Superior or Circuit Court not later than twenty (20) days after Contractor receives notice of such termination.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

Contractor




Printed: Kathryn J. Redd

Title: PSN Anti-Gang Crime Director

Date: 11-18-22

Prosecutor



Printed: Patrick K. Harrington

Title: Tippecanoe Co. Prosecutor

Date: 11-18-22

Tippecanoe County

By: _____

Date: _____

Printed: _____